

REMARKS***Remaining Claims***

Claim 16 has been canceled and Claims 1, 12, 13, 21, 23 have been amended to more clearly point out and distinctly claim the invention. Supports for Claim 1 amendments can be found in the specification, for examples from paragraphs 31-32 and examples of the present invention as the US patent application publication of US 2004/0142829 A1. After these amendments are entered, eighteen (18) claims (Claims 1, 3 – 4, 6, 8-10, 12 – 14, and 17-24) remain under consideration in this application.

CLAIM REJECTIONS UNDER 35 U.S.C §112

Claims 21 and 23 contain the trademark/trade name poloxamer and tyloxapol. Where a trademark or trade name is used in a claim as a limitation to identify or describe material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph.

The 112 rejection on claims 21 and 23 have been overcome by amending the claims 21 and 23.

CLAIM REJECTIONS UNDER 35 U.S.C §103(A).

Claims 1,3-4, 6, 8-10, 12-14, 17-19 are rejected under 35 USC §103(a) as obvious over Hu et al. (US 6,037,328) in view of Schwind et al. (2002/015961). For the following reasons, the Examiner's rejection is respectfully traversed.

Applicants respectfully submit that a prima facie case of obviousness has not been established as the cited references, alone or in combination, do not disclose or suggest all the claim limitations. The cited reference neither discloses nor suggests about an aqueous contact lens disinfecting solution comprising a buffer, tyloxapol, 0.001% to 0.5% of poloxamer, sorbitol, dexpanthenol, and less than 1 ppm of a polymeric antimicrobial agent; wherein said solution has a tonicity of 200 to 450 mOsm/kg, a pH of between 6 and 8; wherein the buffer is selected from the group consisting of TRIS and bis-TRIS-propane and the total concentration of chloride ions and phosphate ions below 1500 ppm, and wherein said solution will result in at least a 1 log reduction in C. albicans within 15 minutes of contact as required by the claim 1. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Claim 3-4, 6, 8-10, 12-14, 17-19 are directly or indirectly dependent from Claim 1. As discussed above. The currently amended claim 1 is believed to be in the condition of allowance. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Claim 20 is rejected under 35 USC §102(e) as being anticipated by or, in the alternative, under 35 USC §103(a) as obvious over Hu, *et al.* (6,037,328) in view of *Groemminger, et al.* (US 6,872,695).

Claim 20 is indirectly dependent from Claim 1. As discussed above, the currently amended claim 1 is believed to be in the condition of allowance. *Groemminger, et al.* does not provide further teachings that would render the currently claimed 1 obvious. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Claims 21-24 are rejected under 35 USC §103(a) as being unpatentable over Hu *et al.* (6,037,328) in view of *Schwind, et al.* (WO 2002/0155961), and further in view of *Groemminger, et al.* (US 6,872,695). For the following reasons, the Examiner's rejection is respectfully traversed.

Applicants respectfully submit that a *prima facie* case of obviousness has not been established as the cited references, alone or in combination, do not disclose or suggest all the claim limitations, for example, the buffer is selected from the group consisting of TRIS and bis-TRIS-propane and the total concentration of chloride ions and phosphate ions below 1500 ppm, and said solution will result in at least a 1 log reduction in *C. albicans* within 15 minutes of contact as required by the claims 21-24. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Double Patenting Rejections

Claims 1,3-10 and 12-14, 16-24 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over Claims 1 – 4 of 6261546; Claims 1 – 15 of 5858996; Claims 1 – 12 of 5846919; Claims 1 – 5 of 5807585; Claims 1 – 5 of 5683993; Claims 1 – 11 of 5576276;

Applicants respectfully disagree with the Examiner's statement "applicant's describes his most limited comprehensive claim and set forth claim 1 which is broader in scope with the patents and provision applications. Moreover, many patents and provisional application comprises broad limitations and descriptions that read on applicant's claims." Applicants analyze those patents based on the broadest claim (i.e. claim 1) as currently amended and not the most limited comprehensive claim. The conclusion is that none of these references claim the currently claimed lens care composition. The references do not teach a solution comprising a buffer, tyloxapol, 0.001% to 0.5% of poloxamer, dexpanthenol ,and less than 1 ppm of a polymeric antimicrobial agent; wherein said solution has a tonicity of 200 to 450 mOsm/kg, a pH of between 6 and 8; wherein the buffer is selected from the group consisting of TRIS and bis-TRIS-propane and the total

concentration of chloride ions and phosphate ions below 1500 ppm, and wherein said solution will result in at least a 1 log reduction in C. albicans within 15 minutes of contact – all as required by Claim 1 – all as required by Claims 1,3-10 and 12-14, 16-24.

Applicants respectfully request Examiner discusses element by element of the current amended claim 1, comparing to the teachings of those patents, following the MPEP's requirements, if the rejection is maintained.

Claims 1, 3-10, 13-24 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over Claims copending Application No. 09/963,972; 11/078,209; 11/212,957 and 11/212,959.

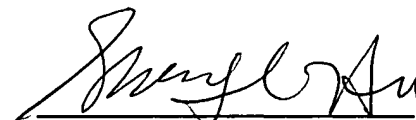
As discussed above, none of these references claim the currently claimed lens care composition. The references do not teach a solution a solution having a solution comprising a buffer, tyloxapol, 0.001% to 0.5% of poloxamer, dexpanthenol, and less than 1 ppm of a polymeric antimicrobial agent; wherein said solution has a tonicity of 200 to 450 mOsm/kg, a pH of between 6 and 8; wherein the buffer is selected from a group from TRIS and bis-TRIS-propane and the total concentration of chloride ions and phosphate ions below 1500 ppm, and wherein said solution will result in at least a 1 log reduction in C. albicans within 15 minutes of contact –all as required by Claims 1,3-10,13-24.

CONCLUSION

In view of the foregoing and in conclusion, Applicants submit that all of the pending claims are now in conditions for allowance.

Should the Examiner believe that a discussion with Applicants' representative would further the prosecution of this application, the Examiner is respectfully invited to contact the undersigned. The Commissioner is hereby authorized to charge any other fees which may be required under 37 C.F.R. §§1.16 and 1.17, or credit any overpayment, to Deposit Account No. 50-2965.

Respectfully submitted,



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